

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

Plaintiff,

v.

ARMSTRONG WORLD INDUSTRIES, INC.,  
f/k/a ARMSTRONG CORK COMPANY;  
ASHLAND OIL, INC., on behalf of its  
ASHLAND CHEMICAL COMPANY DIVISION;  
AT & T TECHNOLOGIES, INC.,  
f/k/a WESTERN ELECTRIC COMPANY, INC.;  
CHEVRON CORPORATION AND CHEVRON U.S.A,  
INC., as successors to REFINED ONYX;  
E.I. DUPONT DE NEMOURS AND COMPANY, INC.;  
FREEHOLD CARTAGE, INC.;  
GAF CORPORATION;  
GANES CHEMICALS, INC.;  
GENERAL ELECTRIC COMPANY, INC.;  
GRUMMAN AEROSPACE CORPORATION;  
HOECHST CELANESE CORPORATION, as  
successor to AMERICAN  
HOECHST CORPORATION;  
INTERNATIONAL BUSINESS MACHINES  
CORPORATION;  
LONE PINE CORPORATION;  
MATLACK, INC.;  
NL INDUSTRIES, INC.;  
PFIZER, INC.;  
RCA CORPORATION;  
ROHM & HAAS COMPANY, INC.;  
SCHENECTADY CHEMICALS, INC.;  
TENAX FINISHING PRODUCTS COMPANY, INC.;  
TRANSFER PRINT FOILS, INC., on behalf  
of its ALL PURPOSE ROLL LEAF DIVISION;  
UNION CARBIDE CORPORATION;  
UNITED TECHNOLOGIES CORPORATION, as  
successor to the liabilities of  
INMONT CORPORATION.

Defendants.

232363



CIVIL ACTION NO.

COMPLAINT

The United States of America, by and through the undersigned attorneys, by authority of the Attorney General of the United States and at the request of the United States Environmental Protection Agency ("U.S. EPA"), alleges that:

**STATEMENT OF THE CASE**

1. This is a civil action brought pursuant to Sections 107 and 113(b) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 9607, 9613(b), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("CERCLA"). The United States seeks to recover costs incurred under Section 104 of CERCLA 42 U.S.C. § 9604, in conducting actions in response to the release or threatened release of hazardous substances at or from a 63-acre site located in Freehold Township, Monmouth County, New Jersey, known as the Lone Pine Landfill Site ("Site"), and declaratory judgment that defendants are liable for all future costs to be incurred by the United States at the Site to implement U.S. EPA's September 28, 1984, Record of Decision.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over the subject matter of this action pursuant to Sections 107(a) and 113(b) of CERCLA, 42 U.S.C. §§ 9607(a) and 9613(b), and 28 U.S.C. §§ 1331 and 1345.

3. Venue is proper in this district pursuant to Section 113(b) of CERCLA, 42 U.S.C. § 9613(b), and 28 U.S.C. § 1391(b) and (c) because the claims arose and the threatened and actual releases of hazardous substances occurred in this district.

DEFENDANTS

4. Each of the defendants is a person within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

5. Defendant Lone Pine Corporation, a New Jersey corporation, is the current owner of the Site. Defendant Lone Pine Corporation is also a person who owned and operated the Site during the period in which hazardous substances were disposed of at the Site.

6. Defendant Freehold Cartage, Inc., a New Jersey corporation, is a person who accepted hazardous substances for transport to the Site, a disposal or treatment facility or site that it selected.

7. Defendant Armstrong World Industries, Inc., formerly known as Armstrong Cork Company, is a Pennsylvania corporation which did business with Scientific Chemical Processing, Inc. ("SCP").

8. Defendant Ashland Oil, Inc. is a Kentucky corporation. Ashland Chemical Company, a division of Ashland Oil, Inc., did business with SCP.

9. Defendant AT & T Technologies, Inc., formerly known as Western Electric Company, Inc., is a New York corporation which did business with SCP.

10. Defendant Chevron Corporation is a Delaware corporation. Defendant Chevron U.S.A. Inc. is a Pennsylvania corporation. Refined Onyx was formerly a division or subsidiary of Millmaster Onyx, which was a subsidiary of Kewanee Industries, Inc., which was acquired by Gulf Oil Corporation. Refined Onyx

did business with SCP. Chevron U.S.A. Inc., a subsidiary of Chevron Corporation, merged into Gulf Oil Corporation. On information and belief, the surviving corporation, defendant Chevron U.S.A. Inc., or its parent Chevron Corporation, assumed the liabilities of Refined Onyx.

11. Defendant E. I. Dupont de Nemours and Company, Inc, a Delaware corporation, did business with SCP.

12. Defendant GAF Corporation, a Delaware corporation, did business with SCP.

13. Defendant Ganes Chemical Company, a New York corporation, did business with SCP.

14. Defendant General Electric Company, Inc., a New York corporation, did business with SCP.

15. Defendant Grumman Aerospace Corporation, a New York corporation, did business with SCP.

16. Hoechst Celanese Corporation, a Delaware corporation, is a successor to American Hoechst Corporation which did business with SCP.

17. Defendant International Business Machines Corporation, a New York corporation, did business with SCP.

18. Defendant Matlack, Inc., a Pennsylvania corporation, did business with SCP.

19. Defendant NL Industries, Inc., a New Jersey corporation, did business with SCP.

20. Defendant Pfizer, Inc., a Delaware corporation, did business with SCP.

21. Defendant RCA Corporation, a Delaware corporation, did business with SCP.

22. Defendant Rohm & Haas, a Delaware corporation, did business with SCP.

23. Defendant Schenectady Chemicals, Inc., a New York corporation, did business with SCP.

24. Defendant Tenax Finishing Products Company, Inc., a New Jersey Corporation, did business with SCP.

25. Defendant Transfer Print Foils, Inc. is a New Jersey corporation. All Purpose Roll Leaf Corporation, a division of defendant Transfer Print Foils, Inc., did business with SCP.

26. Defendant Union Carbide Corporation, a New York corporation, did business with SCP.

27. Defendant United Technologies Corporation is a Delaware corporation. Inmont Corporation, a former subsidiary of United Technologies Corporation, did business with SCP. On information and belief, as a condition of the sale of Inmont Corporation to BASF Corporation, defendant United Technologies Corporation assumed the liabilities of Inmont Corporation with regard to the Site.

28. Each of the defendants identified in Paragraphs 7 through 27 above ("defendant-generators") is a person or a successor in interest to a person who contracted with SCP for transport and disposal of their hazardous substances at SCP's facilities in Newark and Carlstadt, New Jersey. SCP, in turn, contracted with Taylor Pumping Services, Inc. ("Taylor Pumping")

for transport and disposal of defendant-generators' hazardous substances.

29. Beginning in 1977, and continuing at least through June 1978, Taylor Pumping transported defendant-generators' hazardous substances to the Site for disposal either 1) directly from defendant-generators' own facilities; or 2) from the SCP facilities in Newark or Carlstadt, New Jersey, where they had been initially transported by SCP.

30. Each of the defendant-generators is a person or a successor in interest to a person who by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by each such defendant-generator at any facility owned or operated by another party or entity and containing such hazardous substances.

#### THE SITE

31. The Site occupies approximately 63 acres of which 45 acres were used for landfill operations. The Site is located on Burke Road in Freehold Township, Monmouth County, New Jersey. From approximately 1959 to 1979, hazardous substances were accepted, transported to, and disposed of at the Site.

32. On December 30, 1982 the Site was placed on the National Priorities List, 40 C.F.R. Part 300, Appendix B, which is a national list of hazardous waste sites posing the greatest threat to health, welfare and the environment. The Site was ranked fifteenth on the National Priorities List established pursuant to Section 105(a) of CERCLA, 42 U.S.C. § 9605(a).

33. Pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, in September of 1982, U.S. EPA began a Remedial Investigation and Feasibility Study ("RI/FS") at the Site, to investigate and determine the nature and extent of contamination at the Site. The RI/FS was completed in June of 1984.

34. The RI/FS demonstrated that surface soils at the Site are contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene and, toluene.

35. The RI/FS demonstrated that the Manasquan River adjacent to and just downstream of the Site is contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene, toluene, vinyl chloride, and arsenic.

36. The RI/FS demonstrated that groundwater at the Site is contaminated with hazardous substances such as benzene, chlorobenzene, ethylbenzene, toluene, vinyl chloride, and arsenic.

37. Based on information, including information collected during the RI/FS, U.S. EPA selected a remedy in a Record of Decision ("ROD") that was issued on September 28, 1984.

38. There were and are releases, within the meaning of Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and the threat of continuing releases, of hazardous substances into the environment at the Site.

39. The Site is a facility within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

40. Hazardous substances, within the meaning of

Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been treated, stored or disposed of at the Site.

**FIRST CLAIM FOR RELIEF**

41. Paragraphs 1-40 are realleged and incorporated herein by reference.

42. Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), provides, in pertinent part:

(1) the owner and operator of a vessel . . . or a facility,

(2) any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of, . . .

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances . . .

(4) any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, . . . or sites selected by such person, from which there is a release, or a threatened release which caused the incurrence of response costs, of a hazardous substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the United States Government or a State not inconsistent with the national contingency plan. . . .

43. Defendant Lone Pine Corporation is liable under Sections 107(a)(1) and 107(a)(2) of CERCLA, 42 U.S.C. §§ 9607(a)(1) and 9607(a)(2), as a person who is, and at the time of the disposal of hazardous substances at the Site was, the owner or operator of the Site within the meaning of Section 101(20)(A) of CERCLA, 42 U.S.C. § 9601(20)(A).



44. Defendant Freehold Cartage, Inc. is liable under Section 107(a)(4) of CERCLA, 42 U.S.C. § 9607(a)(4), as a person who accepted hazardous substances for transport to the Site, a disposal or treatment facility or site that it selected, from which there was a release and the continuing threat of a release of hazardous substances.

45. Each of the defendants-generators identified in Paragraphs 7 through 27 above is liable under Section 107(a)(3) of CERCLA, 42 U.S.C. § 9607(a)(3), as persons, or successors in interest of persons, who by contract, agreement, or otherwise arranged for disposal or treatment or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity, at any facility . . . owned or operated by another party or entity and containing such hazardous substances.

46. To date, the United States has incurred response costs in excess of \$3.4 million, and will continue to incur response costs not inconsistent with the National Contingency Plan, including the costs for removal and remedial actions as defined in Sections 101(23), 101(24) and 101(25) of CERCLA, and costs authorized by Section 104 of CERCLA, to respond to the release or threatened release of hazardous substances at the Site.

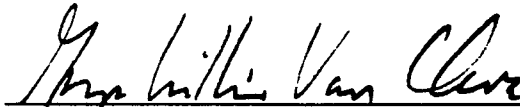
47. Each defendant is jointly and severally liable to the United States for all response costs incurred in the past or to be incurred in the future at the Site in connection with implementing the ROD at the Site.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, the United States of America, prays that the Court:

1. Award the United States a judgment against the defendants, jointly and severally, for all response costs incurred by the United States, plus prejudgment interest, in connection with the Site;
2. Award the United States a declaratory judgment that the defendants are jointly and severally liable for future response costs incurred by the United States in connection with implementing the ROD at the Site;
3. Award the United States its costs and fees in this action;
4. Grant such other and further relief as is appropriate.

Respectfully submitted,



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Land and Natural Resources Division  
United States Department of Justice



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OF COUNSEL

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ADDRESSES

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**Legal Counsel:**

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2. **Ashland Oil, Inc., on behalf of its Ashland Chemical Company Division**

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Ashland Oil, Inc.  
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Ashland, KY 41105

**Division Address:**

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3. **AT & T Technologies, Inc., f/k/a Western Electric Company, Inc.**

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4. **Chevron Corporation and Chevron U.S.A., Inc., as successors to Refined Onyx**

**Chevron Corporation**

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**Chevron U.S.A. Inc.**

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5. **E.I. DuPont de Nemours and Company, Inc.**

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**6. Freehold Cartage, Inc.**

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**7. GAF CORPORATION**

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**8. GANES CHEMICALS, INC.**

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Unknown

9. **GENERAL ELECTRIC COMPANY, INC.,**

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**Legal Counsel:**

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10. **GRUMMAN AEROSPACE CORPORATION**

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11. **HOECHST CELANESE CORPORATION, AS SUCCESSOR TO AMERICAN  
HOECHST CORPORATION**

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12. **INTERNATIONAL BUSINESS MACHINES CORPORATION (IBM)**

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13. **LONE PINE CORPORATION**

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14. **MATLACK, INC.**

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Matlack, Inc.

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15. **NL INDUSTRIES, INC.**

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17. **RCA CORPORATION**

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18. **ROHM & HAAS COMPANY, INC.**

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Group Vice President and General Counsel

19. **SCHENECTADY CHEMICALS, INC.**

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20. **TENAX FINISHING PRODUCTS COMPANY, INC.**

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**21. TRANSFER PRINT FOILS, INC., ON BEHALF OF ITS ALL PURPOSE  
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**22. UNION CARBIDE CORPORATION**

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**23. UNITED TECHNOLOGIES CORPORATION, AS SUCCESSOR TO THE  
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